

ASSEMBLY BILL

No. 1298

Introduced by Assembly Member Wesson

February 23, 2001

An act to amend Section 24200 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1298, as introduced, Wesson. Licenses: suspension or revocation.

Existing law specifies the grounds that constitute a basis for the suspension or revocation of an alcoholic beverage license.

This bill would additionally provide for the suspension or revocation of an alcoholic beverage license if drug paraphernalia, as defined, is present on the licensee's premises.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 24200 of the Business and Professions
- 2 Code is amended to read:
- 3 24200. The following are the grounds that constitute a basis
- 4 for the suspension or revocation of licenses:
- 5 (a) When the continuance of a license would be contrary to
- 6 public welfare or morals. However, proceedings under this
- 7 subdivision are not a limitation upon the department's authority to
- 8 proceed under Section 22 of Article XX of the California
- 9 Constitution.

(b) Except as limited by Chapter 12 (commencing with Section 25000), the violation or the causing or permitting of a violation by a licensee of this division, any rules of the board adopted pursuant to Part 14 (commencing with Section 32001) of Division 2 of the Revenue and Taxation Code, any rules of the department adopted pursuant to the provisions of this division, or any other penal provisions of law of this state prohibiting or regulating the sale, exposing for sale, use, possession, giving away, adulteration, dilution, misbranding, or mislabeling of alcoholic beverages or intoxicating liquors.

(c) *The presence on the licensee's premises of drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.*

(d) The misrepresentation of a material fact by an applicant in obtaining a license.

~~(d)~~

(e) The plea, verdict, or judgment of guilty, or the plea of nolo contendere to any public offense involving moral turpitude or under any federal law prohibiting or regulating the sale, exposing for sale, use, possession, or giving away of alcoholic beverages or intoxicating liquors or prohibiting the refilling or reuse of distilled spirits containers charged against the licensee.

~~(e)~~

(f) Failure to take reasonable steps to correct objectionable conditions on the licensed premises, including the immediately adjacent area that is owned, leased, or rented by the licensee, that constitute a nuisance, within a reasonable time after receipt of notice to make those corrections from a district attorney, city attorney, county counsel, or the department, under Section 373a of the Penal Code. For ~~the purpose~~ *purposes* of this subdivision only, "property or premises" as used in Section 373a of the Penal Code includes the area immediately adjacent to the licensed premises that is owned, leased, or rented by the licensee.

~~(f)~~

(g) Failure to take reasonable steps to correct objectionable conditions that occur during business hours on any public sidewalk abutting a licensed premises and constitute a nuisance, within a reasonable time after receipt of notice to correct those conditions from the department. This subdivision shall apply to a licensee only upon written notice to the licensee from the department. The

1 department shall issue this written notice upon its own
2 determination, or upon a request from the local law enforcement
3 agency in whose jurisdiction the premises are located, that is
4 supported by substantial evidence that persistent objectionable
5 conditions are occurring on the public sidewalk abutting the
6 licensed premises. For purposes of this subdivision:

7 (1) “Any public sidewalk abutting a licensed premises” means
8 the publicly owned, pedestrian-traveled way, not more than 20 feet
9 from the premises, that is located between a licensed premises,
10 including any immediately adjacent area that is owned, leased, or
11 rented by the licensee, and a public street.

12 (2) “Objectionable conditions that constitute a nuisance”
13 means disturbance of the peace, public drunkenness, drinking in
14 public, harassment of passersby, gambling, prostitution, loitering,
15 public urination, lewd conduct, drug trafficking, or excessive loud
16 noise.

17 (3) “Reasonable steps” means all of the following:

18 (A) Calling the local law enforcement agency. Timely calls to
19 the local law enforcement agency that are placed by the licensee,
20 or his or her agents or employees, shall not be construed by the
21 department as evidence of objectionable conditions that constitute
22 a nuisance.

23 (B) Requesting those persons engaging in activities causing
24 objectionable conditions to cease those activities, unless the
25 licensee, or his or her agents or employees, feel that their personal
26 safety would be threatened in making that request.

27 (C) Making good faith efforts to remove items that facilitate
28 loitering, such as furniture, except those structures approved or
29 permitted by the local jurisdiction. The licensee shall not be liable
30 for the removal of those items that facilitate loitering.

31 (4) When determining what constitutes “reasonable steps,” the
32 department shall consider site configuration constraints related to
33 the unique circumstances of the nature of the business.

34 ~~(g)~~

35 (h) Subdivision ~~(f)~~ (g) does not apply to a bona fide public
36 eating place, as defined in Section 23038, 23038.1, or 23038.2,
37 that is so operated by a retail on-sale licensee or on-sale beer and
38 wine licensee; a hotel, motel, or similar lodging establishment, as
39 defined in subdivision (b) of Section 25503.16; a winegrowers
40 license; a licensed beer manufacturer, as defined in Section 23357;

1 those same or contiguous premises for which a retail licensee
2 concurrently holds an off-sale retail beer and wine license and a
3 beer manufacturer's license; or those same or contiguous premises
4 at which a retail on-sale licensee or on-sale beer and wine licensee
5 who is licensed as a bona fide public eating place as defined in
6 Section 23038, 23038.1, or 23038.2, a hotel, motel, or similar
7 lodging establishment as defined in subdivision (b) of Section
8 25503.16, a licensed beer manufacturer, as defined in Section
9 23357, or a winegrowers license, sells off-sale beer and wine under
10 the licensee's on-sale license.

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